

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

In the Matter of:

OCT 31 2003

Complaint of Natural Energy)
Utility Corporation Against) Case No. 2003-00422
Columbia Gas of Kentucky)

PUBLIC SERVICE
COMMISSION

FORMAL COMPLAINT

1. Natural Energy Utility Corporation (NEUC) is a Kentucky corporation with its principal office located at 2560 Hoods Creek Pike, Ashland, KY 41101.
2. NEUC is a regulated natural gas utility subject to the Commission's jurisdiction pursuant to KRS Chapter 278.
3. NEUC serves residential, commercial and industrial customers in Boyd and Greenup counties.
4. Columbia Gas of Kentucky (CKY) is a regulated natural gas utility with its office located at Box 14241, 2001 Mercer Rd., Lexington, KY 40512-4241
5. On September 30, 2003, NEUC received notice from one of its customers, Hyland Company, that it is terminating service at 1830 U.S. 60 West, Ashland, KY with NEUC effective in 90 days, copy attached.
6. NEUC provides Hyland with natural gas and has been its sole provider of natural gas service since 1991.

7. NEUC has natural gas facilities located on Hyland's property, which is served through a three inch transmission main extending along the west side of U.S. 60 and crossing Rt. 966 to the Hyland property.

8. There is no other natural gas pipeline facility on or near Hyland's property.

9. NEUC believes that CKY is preparing to construct natural gas facilities to serve Hyland.

10. CKY has obtained an Encroachment Permit from the Kentucky Department of Highways, copy attached, to place a pipeline under U.S. 60 near Hyland's property. The diagram of the proposed construction attached to the permit application references the Hyland company.

11. KRS 278.020 requires any utility to obtain a certificate of convenience and necessity prior to constructing any utility facility. NEUC has been unable to locate any certificate allowing CKY to construct facilities to Hyland.

12. Without a certificate of convenience and necessity, any construction must meet the requirements of being in the ordinary course of business. To qualify as ordinary, the construction must not create wasteful duplication of facilities or conflict with the certificate of another utility operating in the same area.

13. Any construction in the vicinity of Hyland's property and any service to Hyland will conflict with the service and facilities of NEUC and duplicate its existing facilities.

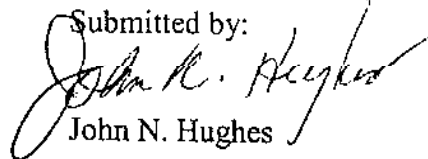
14. NEUC is able to continue to provide natural gas service to Hyland.

15. NEUC requests that the Commission investigate the activity of CKY to determine if it is violating NEUC's authority to provide service to Hyland and the area generally located along U.S. 60 near Ashland, KY.

16. If CKY is preparing to serve Hyland, NEUC requests that the Commission order CKY to cease any activities that would allow it to do so and to determine that any such activity would violate NEUC's certificate to serve that customer and that area of Boyd County.

For these reasons, NEUC requests that the Commission investigate the activities of CKY and if it is determined that its activities will interfere with or duplicate the service and facilities of NEUC that an order prohibiting such activity be issued.

Submitted by:

A handwritten signature in dark ink, appearing to read "John N. Hughes", is written over the printed name.

John N. Hughes

124 W. Todd St.
Frankfort, KY 40601

Attorney for Natural Energy
Utility Corporation

September 30, 2003

Mr. Jay Freeman
American Natural Gas Corporation
3260 Hoods Creek Pike
Ashland, KY 41101
HAND DELIVERED

RE: Gas Sales Agreement
Hyland Company/Kentucky-Ohio Gas

Dear Mr. Freeman:

Be advised that the Hyland Company hereby terminates the agreement with American Natural Gas Corporation formerly Kentucky-Ohio Gas Acquisition Corporation to furnish gas to Hyland's plant at 1830 U.S. 60 W, Ashland, Kentucky, ninety (90) days hereafter. Thank you for your consideration.

Yours truly,



Harold Burke
Plant Manager
Hyland Company
1830 U.S. 60 W
Ashland, KY 41101



Commonwealth of Kentucky
Transportation Cabinet

Department of Highways, District Nine
Elizaville Road, P.O. Box 347
Flemingsburg, Kentucky 41041
606/845-2551, (Fax) 606/849-2286
Jim Rummage
Chief District Engineer

Paul E. Patton
Governor

James C. Codell, III
Secretary of Transportation

Clifford C. Linkes, P.E.
Deputy Secretary

September 11, 2003

COLUMBIA GAS OF KENTUCKY (S/W)
429 MAIN STREET, PO BOX 304
PARIS, KY 40361

SUBJECT: Boyd County, MP-10-966-4.9
KY 966 (TO 5.1)
Permit Number 09-0316-03

Dear COLUMBIA GAS OF KENTUCKY (S/W):

Your application for an encroachment permit has been approved by the Department of Highways. We are returning two copies of the approved permit so one may be kept in your record files. The other copy must be given to the party responsible for completing the project and must be kept at the jobsite at all times.

Please see that the work is done in strict conformity with the permit and any other applicable conditions (See Form TC99-21 and any other attached documents, conditions or specifications). The work should be completed no later than July 1, 2004. When the permitted work and any necessary restoration have been completed please notify this office by using the attached form which will serve as notification for final inspection.

If there are any questions regarding this permit, please do not hesitate to contact Daniel Suit, District Permit Supervisor at 606-845-2551 or fax number 606-849-2286.

Sincerely,

James W. Rummage, P. E.
Chief District Engineer
Department of Highways
District 9 -Flemingsburg
P.O. Box 347
Flemingsburg, KY 41041



KENTUCKY TRANSPORTATION CABINET MISSION
"PROVIDING A SAFE, EFFICIENT, ENVIRONMENTALLY SOUND, AND FINANCIALLY RESPONSIBLE TRANSPORTATION
SYSTEM WHICH PROMOTES ECONOMIC GROWTH AND ENHANCES THE QUALITY OF LIFE IN KENTUCKY."
"AN EQUAL OPPORTUNITY EMPLOYER M/F/D"

NOTICE OF COMPLETION OF ENCROACHMENT PERMIT WORK

Please return this form to the District Office when work is completed and ready for final inspection.

Applicant Identification

Name: COLUMBIA GAS OF KENTUCKY (S/W)

Contact Person:

Address: 429 MAIN STREET, PO BOX 304

City: PARIS

State: KY Zip: 40361

Telephone: 606-987-1442

Project Identification

Permit Number: 09-0316-03

County: Boyd

Route Number: 966

Road Name: TO 5.1

Milepoint: 4.9

I wish to notify the Department of Highways that the above mentioned permit work and any necessary right of way restoration have been completed and are ready for final inspection.

Applicant

Please Return To:

Department of Highways
District 9 Flemingsburg
P.O. Box 347
Flemingsburg, Ky. 41041

Attention:

Daniel Suit, District Permit Supervisor

KENTUCKY TRANSPORTATION CABINET
Department of Highways
Permits Branch

TC 99-10
Rev. 10/01

Released Date

ENCROACHMENT PERMIT

PERMIT NO. 09-0316-03

APPLICANT IDENTIFICATION: NAME: <u>COLUMBIA GAS OF KENTUCKY</u> CONTACT PERSON: <u>Mike Pierce</u> ADDRESS: <u>121 9th St</u> CITY: <u>Ashland</u> STATE: <u>KY</u> ZIP CODE: <u>41101</u> PHONE: area code (<u>606</u>) <u>324-7115</u> ext. <u>228</u>		PROJECT IDENTIFICATION: ACCESS CONTROL: <input checked="" type="checkbox"/> By Permit <input type="checkbox"/> Partial <input type="checkbox"/> Full COUNTY: <u>BOYD</u> PRIORITY ROUTE NO: <u>968</u> MILEPOINT: <u>4.9-5.1</u> <input type="checkbox"/> Left <input checked="" type="checkbox"/> Right <input type="checkbox"/> X-ing PROJECT STATUS: <input checked="" type="checkbox"/> Maint. <input checked="" type="checkbox"/> Design <input type="checkbox"/> Design PROJECT # STATE: _____ PROJECT # FEDERAL: _____ ROAD/STREET NAME: _____	
TYPE OF ENCROACHMENT: <input type="checkbox"/> COMMERCIAL ENTRANCE - BUSINESS <input type="checkbox"/> PRIVATE ENTRANCE: <input type="checkbox"/> Single Family <input type="checkbox"/> Farm <input checked="" type="checkbox"/> UTILITY: <input type="checkbox"/> Overhead <input checked="" type="checkbox"/> Underground <input type="checkbox"/> GRADE: <input type="checkbox"/> Fill <input type="checkbox"/> Landscape on R/W <input type="checkbox"/> AIRSPACE <input type="checkbox"/> Agreement <input type="checkbox"/> Lease <input type="checkbox"/> OTHER: (Specify) _____		ATTACHMENTS: <input type="checkbox"/> Standard Drawings (List on TC 99-21 under Misc.) <input checked="" type="checkbox"/> Applicant's Plans <input type="checkbox"/> Highway Plan and Profile Sheets <input type="checkbox"/> TC 99-3 (Ponding Encroachment Specs. and Conditions) <input type="checkbox"/> TC 99-4 (Roof Area Usage Specs. and Conditions) <input type="checkbox"/> TC 99-5 (Tree Cutting/Trimming Specs. and Conditions) <input type="checkbox"/> TC 99-6 (Chemical Use of Specs. and Conditions) <input type="checkbox"/> TC 99-10 (Typical Highway Siding Crossing Detail) <input type="checkbox"/> TC 99-12 (Overhead Utility Encroachment Diagram) <input type="checkbox"/> TC 99-13 (Surface Restoration Methods) <input type="checkbox"/> TC 99-21 (Encroachment Permit Requirements and Specs.) <input type="checkbox"/> TC 99-22 (Agreement for Services to be performed) <input type="checkbox"/> TC 99-23 (Mass Transit Shelter Specs. and Conditions) <input checked="" type="checkbox"/> Other Attachments (Specify): <u>SEP 10 2003</u> TC-99-17	
TYPE OF INDEMNITY: <input checked="" type="checkbox"/> Bond <input type="checkbox"/> Cash <input checked="" type="checkbox"/> SELF-INSURED AMOUNT ENCUMBERED \$ <u>2500.00</u> <input type="checkbox"/> OTHER PERFORMANCE BOND ON FILE		RECEIVED TRANSPORTATION CABINET DISTRICT 9	
NAME AND ADDRESS OF LOCAL INSURANCE AGENCY OR SELF-INSURED REPRESENTATIVE: _____			
INDEMNITY: The applicant, in order to secure this obligation, has deposited with the Transportation Cabinet as a guarantee of performance with the Department's Encroachment Permit requirements, an indemnity in the amount of \$ _____ as determined by the Department. It shall be the responsibility of the applicant or permittee, his heirs and assigns to keep all indemnities in full force until construction or reconstruction has been completed and duly accepted by an authorized agent of the Transportation Cabinet, Department of Highways.			
BRIEF DESCRIPTION OF WORK TO BE DONE. Install a new 2 inch gas main parallel to SR 968 from mile point <u>4.91</u> to <u>5.11</u> to serve Hyland Company plant. Directional bore will be utilized under Williams Creek. Proposed new main to be ten (10) feet from edge of existing pavement. <u>1200' on R/W</u>			
IMPORTANT (PLEASE READ): Applicant <input type="checkbox"/> does <input checked="" type="checkbox"/> does not intend to apply for excess R/W.			

When the work is completed in accordance with the terms of this encroachment permit, your indemnity will be released. However, the permit is effective until revoked by the Transportation Cabinet and the terms on the permit accompanying permit documents and drawings remain in effect as long as the encroachment exists. **FUTURE MAINTENANCE OF THE ENCROACHMENT IS THE RESPONSIBILITY OF THE PERMITTEE.** It is important that you understand the requirements of this encroachment permit application and accompanying documents. If you have not done so, it is suggested that you review these documents and place the permit package in a safe place for future reference.

A copy of this permit and all documents shall be given to your contractor and shall be readily available at the work site for the encroachment permit inspector to review at all times. Failure to meet this requirement may result in cancellation of this permit.

IN THE EVENT THIS APPLICATION IS APPROVED, THIS DOCUMENT SHALL CONSTITUTE A PERMIT FOR THE APPLICANT TO USE THE RIGHT-OF-WAY, BUT ONLY IN THE MANNER AUTHORIZED BY THIS DOCUMENT AND REGULATIONS OF THE DEPARTMENT AND THE DRAWINGS, PLANS, ATTACHMENTS, AND OTHER PERTINENT DATA ATTACHED HERETO AND MADE A PART HEREOF.

The permittee agrees to the following terms and conditions:

Permit No. 29-0316-02

1. The permittee shall comply with and is bound by the requirements of the Department's Permit Manual as revised to and in effect on the date of the issuance of this permit which is made a part hereof by reference.
2. Permittee agrees that if the Department determines that vehicular capacity deficiencies or over capacity conditions develop as a result of the installation and use of this facility, the permittee shall adjust, relocate, or reconstruct the facilities and/or provide and bear the expenses for signs, auxiliary lanes, or other corrective measures reasonably deemed necessary by the Department and as set forth in the Department's Permit Manual within a reasonable length of time after receipt of written notice regarding such adjustments, relocation, additions, modifications, and/or corrective measures, such time to be specified in the notice. In cases where traffic signals are permitted or required, as determined by the Department, the costs for signal equipment and installation(s) shall be borne by the permittee and/or the Department in accordance with Department policy then in force as set forth in the Traffic Manual. Any modifications to the permittee's entrance necessary to accommodate work/travel (including necessary easement(s) on private property) shall be the responsibility of the permittee, at no expense to the Department. (This applies only to Entrance Permits.)
3. The said encroachment will not infringe on the frontage rights of an abutting owner without written consent of the said owner as hereinafter: "(we) consent to the granting of attached permit."
Date _____ (This does not apply to utilities which serve the general public.)
4. Any permit granted hereunder shall be with the full understanding that it shall not interfere with any similar rights or permits heretofore granted to any other party except as otherwise provided by law.
5. A plan prepared by Mike Pierce and dated 9/6/03 is attached hereto and made a part hereof, which describes the facilities to be constructed by the permittee for which facilities this permit is granted. The permittee agrees as a condition to the issuance of the permit to construct and maintain such facilities in accordance with said plan, and the permittee shall not use the facilities authorized herein in any manner contrary to that prescribed by this permit and plan. Normal usage and routine maintenance only are authorized under this permit.
6. Permittee shall comply with the Manual on Uniform Traffic Control Devices as revised to and in effect on the date of the issuance of this permit which is made a part hereof by reference.
7. Permittee shall at all times from date when work is first commenced and until such time as all facilities are removed from the right-of-way premises, defend, protect, and save harmless the Department from all liability, claims, and demands arising out of work undertaken by the permittee pursuant to this permit, due to any negligent act or omission by the permittee, its servants, agents, employees, or contractors. This provision shall not inure to the benefit of any third party or operate to enlarge any liability of the Department beyond that existing at common law if this right of indemnity did not exist.
8. Upon a violation of any of the provisions of this permit, the Department may revoke the permit by giving notice to the permittee in writing to remove from the right-of-way any facilities placed thereon within a reasonable time as set forth in the notice, and in the event said facilities are not so removed, and the right-of-way restored the Department may cause same to be removed, and the costs thereof shall be charged to the permittee.
9. The permittee, its successors and assigns shall use the encroachment permitted in compliance with all Federal requirements imposed pursuant to the provisions of the Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000-1) and regulations of the U.S. Department of Transportation as set forth in Title 49 C.F.R., Part 21, and as said regulations may be amended.
10. Permittee agrees that in the event it should become necessary, as may be reasonably determined by the Department, for the facilities covered by this permit to be removed or relocated in connection with the reconstruction, relocation, or improvement of the abutting highway, the Department may revoke this permit and require removal or relocation by the permittee at his own expense according and pursuant to the procedures provided in Paragraph 8 above except in those cases where the Department is required by law to pay any or all the same.
11. The permittee understands and agrees that this permit is personal to the permittee and shall not inure to his successors and assigns without the written approval of the Department that he is bound by the provisions of this permit as long as the encroachment exists unless a written release has been obtained from the Department. (Does not apply to utilities serving the general public.)
12. If the work authorized by this permit is on a project in the construction phase, it shall be the responsibility of the permittee to make personal contact with _____ Resident Engineer on the project to coordinate the permitted work with the State's prime contractor on the project.
13. This permit does not alleviate any requirements of any other government agency.
14. Permittee agrees to keep the priority route in which this permit was issued clear of dirt, mud, and debris during construction and for the life of this permit.

ANY ATTEMPT TO ALTER THIS FORM CONSTITUTES A VOID PERMIT.

THE UNDERSIGNED APPLICANT (being duly authorized representative/owner) DOES AGREE TO ALL TERMS AND CONDITIONS SET FORTH HEREIN.

Signature: Mike Pierce Date: 9/6/03

Completion Date

Date

Signature

RECOMMENDED FOR APPROVAL

Title

Signature

Chief District Engineer

Date

PRIVATE ENTRANCE: TO BE COMPLETED BY PERSONNEL INSTALLING FACILITY.

Installed By:

Title

Signature

Date

ANY ATTEMPT TO ALTER THIS FORM CONSTITUTES A VOID PERMIT.

ANY ATTEMPT TO ALTER THIS FORM CONSTITUTES A VOID PERMIT.

10/28/03

11:59

81 806 849 2286

TRANS CAB DIST9

007

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
DIVISION OF TRAFFIC
PLAN & PROFILE SHEET

TC 99-17
REV. 11/88

TYPE OF ENCROACHMENT: UTILITY - UNDERGROUND

PERMIT APPLICANT NAME: COLUMBIA GAS OF KENTUCKY

BDYD

COUNTY NAME

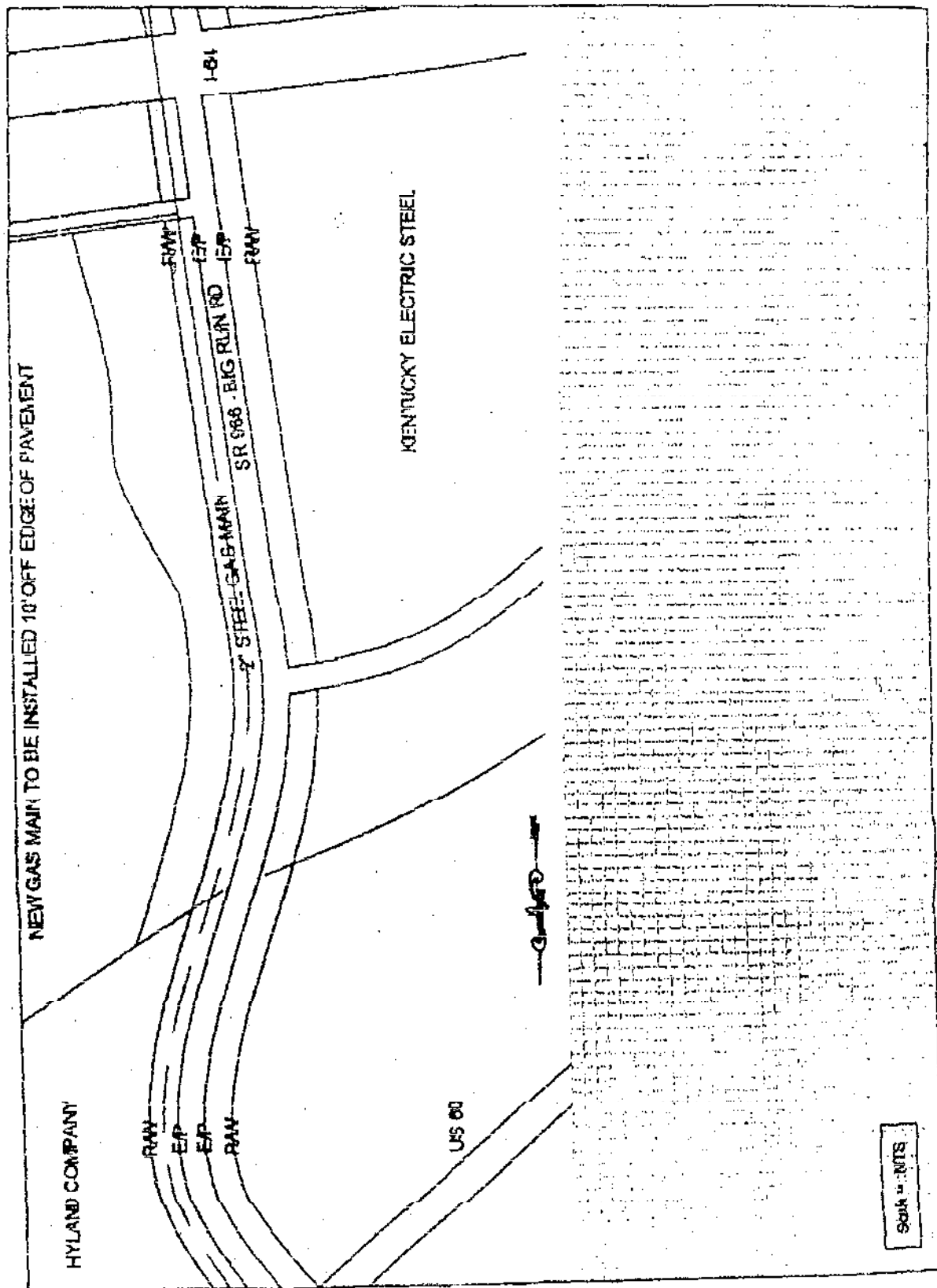
PROJECT NO.

ROAD NAME

MILE MARKER

Route 906 - Big Run Rd

8 FEET CRIGHT



PERMIT NO. 09-0316-03Department of Highways
Permits BranchRev. 12/99
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ENCROACHMENT PERMIT GENERAL NOTES & SPECIFICATIONS

SAFETY**A. General Requirements**

- ☒ All signs and control of traffic shall be in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, Part VI, and safety requirements shall comply with the Permits Manual.
- ☒ All work necessary in shoulder or ditchline areas of a state highway is to be scheduled to be promptly completed so that hazards adjacent to the traveled-way are kept to an absolute minimum.
- ☒ No more than one (1) traveled-lane is to be blocked or obstructed during normal working hours. All signs and flagmen during lane closure shall conform to the Manual on Uniform Traffic Control Devices.
- ☐ When it is necessary to block one (1) traveled-lane of a state highway, the normal working hours shall be as directed by the Department. No lanes are to be blocked or obstructed during adverse weather conditions (i.e., rain, snow, fog, etc.) without specific permission from the Department. Working hours shall be between _____ and _____.
- ☒ The traveled-way and shoulders shall be kept clear of mud and other construction debris at all times during construction of the permitted facility.
- ☒ No nonconstruction equipment or vehicles or office trailers will be allowed on the right-of-way during working hours.
- ☒ The right-of-way shall be left free and clear of equipment, material, and vehicles during non-working hours.

B. Explosives

- ☒ No explosive devices or explosive material shall be used within state right-of-way without proper license and approval of Kentucky Department of Mines and Minerals, Explosive Division.

C. Other Safety Requirements**ENCLOSURES**

- ☐ All work necessary within the right-of-way shall be behind a temporary fence erected prior to a boring operation.
- ☐ The temporary woven wire fence shall be removed immediately upon completion of work on the right-of-way and control of access immediately restored to original condition, in accordance with applicable Kentucky Department of Highways Standard Drawings.
- ☐ All vents, valves, manholes, etc. are to be located outside the right-of-way.
- ☐ Encasement pipe shall extend from right-of-way line to right-of-way line and shall be one continuous run of pipe. The encasement pipe shall be welded at all joints.
- ☐ The boring pit and tail ditch shall extend past the existing toe of slope or bottom of ditch line and shall be a minimum of 30" deep.
- ☐ Encasement pipe shall conform to current standards for highway crossings in accordance with the Permits Manual.
- ☒ Parallel lines shall be constructed between back slope of ditch line and right-of-way line and shall have a minimum of 10" cover above top of pipe or conduit. (30" preferred)
- ☐ All pavement cuts shall be restored per Kentucky Transportation Cabinet Form No. TC 90-12.
- ☐ Aerial crossing of this utility line shall have a minimum clearance of _____ feet from the high point of the roadway to the low point of the line (calculated at the coefficient for expansion of 120 degrees Fahrenheit).
- ☐ The 30' clear zone requirement will be met to the extent possible in accordance with Chapter 99-02.0313 of the Permits Manual.
- ☐ Special Requirements:

*Applies to Fully Controlled Access Highways ONLY

VI. PAVING

- ☐ No bituminous pavement is to be installed within the right-of-way between November 15 and April 1, nor when the temperature is below 40°F, without the express consent of the Department. No bituminous pavement is to be installed when the underlying course is wet.
- ☐ Paving within the right-of-way shall be as follows:
- ☐ Base (Type) _____ (Thickness) _____
- ☐ Surface Base (Type) _____ (Thickness) _____
- ☐ Finished Surface (Type) _____ (Thickness) _____
- ☐ Existing pavement and shoulder material shall be removed to accommodate the above paving specifications.
- ☐ The finished surface of all new pavement within the right-of-way shall be true to the required slope and grade, uniform in density and texture, free of irregularities, and equivalent in riding qualities to the adjacent highway pavement or as determined by the Department of Highways.
- ☐ All materials and methods of construction, including base and subgrade preparation, shall be in accordance with Kentucky Department of Highways Specifications for Road and Bridge Construction, latest edition.
- ☐ 24 hours notice to the Department is required prior to beginning paving operations:
- Phone: _____ Name _____
- ☐ To insure proper surface drainage the new pavement is to be flush with the edge of existing highway pavement and is to slope away from the existing edge of the pavement as specified on drawings.
- ☐ Existing edge of pavement shall be saw cut to provide a straight and uniform joint for new pavement. An approved joint sealer, in accordance with Kentucky Department of Highways Standard Specifications (latest edition) shall be applied between new and existing pavement.

VII. SIDEWALKS SPECIFICATIONS**A. New Sidewalks**

- ☐ Sidewalks are to be constructed of Class A concrete (3,600 p.s.i. test), are to be _____ feet in width, are to be 8" in thickness across the bituminous entrance and 4" in thickness across the remaining sections.
- ☐ Sidewalks are to have locked joints, not less than 1" in depth at four (4) foot intervals, and 1/4 preformed expansion joints extending entirely through the sidewalk at intervals not to exceed fifty (50) feet.
- * This dimension should be equal to the width of the sidewalk
- ☐ All materials and methods of construction, including curing, is to be in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction, latest edition.

B. Existing Sidewalks

- ☐ (Applicable if existing sidewalks are being relocated) Use of the sidewalk is not to be blocked or obstructed, and a usable walkway is to be maintained across the construction area at all times.
- ☐ All damaged sections of the sidewalk are to be entirely replaced to match existing sections.

VIII. DENSE GRADED SHOULDER

- ☐ Any existing dense graded aggregate shoulders in the entire frontage within the construction area, which have been disturbed, damaged, or on which dirt has been placed or mud is deposited or tracked, are to be restored to original condition by removal of all contaminated material and replaced to proper grade with new dense graded aggregate.
- ☐ All new aggregate shoulders as specified on the plan are to consist of 5" compacted dense graded aggregate 2 1/4 pounds per square yard calcium chloride.
- ☐ All dense graded aggregate shoulders are to slope away from the new edge of pavement at the rate of 1/4" per foot.

IX. CURBING**A. Bituminous Curbs**

- ☐ Bituminous concrete curbs shall be given a paint coat of asphalt emulsion.
- ☐ The surface under the bituminous concrete curb shall be locked with asphalt emulsion.
- ☐ All bituminous concrete curbs shall be constructed of a Class I bituminous concrete mixture as specified by official Department of Highways specifications.
- ☐ All bituminous curbs shall be of the rolled curb type with a minimum base width of 8" and a minimum height of _____ inches. The top of the curb shall be constructed in such a manner as to guarantee a uniform rolled effect throughout the entire run.

